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**ATTORNEY'S DOCKET NUMBER: 0342941-0104 (Myers 1747-00)**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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| Applicant: | Myers *et al.* | Examiner | |
| Serial No.: | 10/826,859 | Art Unit | 1614 |
| Filing Date: | April 16, 2004 | | |
| Title: | *Saframycins, Analogues and Uses Thereof* | | |

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**TRANSMITTAL LETTER**

Enclosed are the following documents:

1. Statement Under 37 CFR §§ 1.56, 1.57, & 1.98 (6 pages);
2. Form PTO-1449 (6 pages);
3. Cited Art (38); and
4. Return Postcard

If any additional fees are required to be paid or if any overpayment has been made, please charge same to Deposit Account No. 03-1721.

Respectfully submitted,

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Dated: 8/10/2004

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313
on 8-10-04
Sandra Saccoccia

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| Applicant: | Myers *et al.* | Examiner | |
| Serial No.: | 10/826,859 | Art Unit | 1614 |
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| Title: | *Saframycins, Analogues and Uses Thereof* | | |

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**STATEMENT UNDER 35 CFR §§ 1.56, 1.97, & 1.98**

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, Applicant requests consideration of this Information Disclosure Statement.

Type of Statement

The present Information Disclosure Statement is:

[X] An *original* Information Disclosure Statement; or

[ ] A *supplemental* Information Disclosure Statement.

**Certificate of Mailing**

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8-10-04
Date

Sandra Saccocia
Signature

Sandra Saccocia
Typed or Printed Name of person signing certificate

Compliance with 37 CFR § 1.97

The present Information Disclosure Statement is being filed:

[X] Pursuant to 37 CFR § 1.97(b); no fee or certification is required:

[ ] Within three months of the filing date of a national application other than a continued prosecution application under § **1.53(d)**;

[ ] Within three months of the date of entry of the national stage as set forth in **§ 1.491** in an international application;

[X] Before the mailing of a first Office action on the merits; or

[ ] Before the mailing of a first Office action after the filing of a request for continued examination under § **1.114**.

[ ] Pursuant to 37 CFR § 1.97(c) after the dates listed above but before the mailing date of any of a final action under § **1.113**, a notice of allowance under § **1.311**, or an action that otherwise closes prosecution in the application; Applicant hereby *either*:

[ ] Certifies that *either*:

[ ] each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or

[ ] That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the

knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § **1.56(c)** more than three months prior to the filing of the information disclosure statement.; or

[ ] Includes herewith the fee set forth in § **1.17(p)**.

[ ] Pursuant to 37 CFR § 1.97(d), after the mailing date of any final action under § **1.113**, a notice of allowance under § **1.311**, or an action that otherwise closes prosecution in the application; Applicant hereby *both*:

[ ] Certifies that *either*:

[ ] each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or

[ ] That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § **1.56(c)** more than three months prior to the filing of the information disclosure statement.; and

[ ] Includes herewith the fee set forth in § **1.17(p)**.

Content of the Information Disclosure Statement

Applicant hereby makes of record in the above-identified application the reference(s) listed on the attached form PTO-1449 (modified). The order of presentation of the references should not be construed as an indication of the importance of the references.

Applicant includes copies of references as indicated below:

[ ] A copy of each cited reference not indicated with an asterisk is included;

[X] Copies of references indicated with an asterisk on the attached form PTO-1449 are not included pursuant to 37 CFR § 1.98(d) because they were previously provided to the United States Patent Office in an Information Disclosure Statement that complies with 37 CFR § 1.98(a)-(c) and was submitted in the following patent application that is relied upon in the present case for an earlier effective filing date under 35 USC § 120:

| Serial Number | Filing Date | Status |
|---|---|---|
| 10/011,466 | November 5, 2001 | Pending |

[ ] Copies of English translations of one or more non-English references are included.

Applicant hereby makes the following additional information of record in the above-identified application:

Applicant certifies that the Information Disclosure Statement *either*:

[ ] Does not contain non-English language citations;

[ ] Does contain non-English language citations, of which the following is a concise

explanation:

[ ] Includes one or more translations of a non-English citation.

Remarks

The submission of this Information Disclosure Statement should not be construed as a representation that a search has been made.

The submission of this Information Disclosure Statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in **§ 1.56**(b) .

The submission of this Information Disclosure Statement shall not be construed as a representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;

2. The enclosed form PTO-1449 be signed by the Examiner to evidence that the cited patent(s) and publication(s) has (have) been fully considered by the Patent and Trademark Office during the examination of this application; and

3. The citations for the patent(s) and publication(s) be printed on any patent which issues from this application.

Notwithstanding any statements by Applicants, the Examiner is urged to form his or her own conclusions regarding the relevance of the cited reference(s).

Respectfully submitted,

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| Form PTO-1449 (REV. 8-83) | U.S. Department of Commerce Patent and Trademark Office | Atty. Docket: 0342941-0104 (Myers 1747-00) | In re Application No. 10/826,859 |
|---|---|---|---|
| **INFORMATION DISCLOSURE STATEMENT** *(Use several sheets if necessary)* | | Applicant: Myers *et al.* | |
| | | Filing Date: April 16, 2004 | Group: 1614 |



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| EXAMINER | **DATE CONSIDERED** |
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EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

**3711991**

| U.S. PATENT APPLICATIONS | | | | | |
|---|---|---|---|---|---|
| Examiner's Initials: | Publication Number: | Applicant: | Publication Date: | Group: | Art Unit: |
| | US2003/0083495 | Corey | May 1, 2003 | | |

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